IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 19875 of 1994

Between:

1. G. Kasi Naidu (Died), S/o Govindaswamy,
   R/o Tirupati, Chittoor District.
2. Smt. Marepalli Kausalyamma, W/o Late G. Kasi Naidu,
   R/o D.No.13-1-209, Pedda Kapu Street, Tirupati, Chittoor

District.
The Petitioner 2 is brought on Record as LR's of deceased as per

Court Order dt. 2-9-98 in WPMP 13411/97
3. Sri M. Balaji, S/o Late G. Kasi Naidu,
   R/o D.No.13-1-209, Pedda Kapu Street, Tirupati, Chittoor

District
The Petitioner No.3 is brought on Record as LR's of deceased as . per Court Order dt. 2-9-98 in WPMP 13411/97

..... PETITIONERS

AND

1. The Industrial Tribunal Cum Labour Court, Rep by its Presiding

Officer, Anantapur.
2. Tirumala Tirupati Devasthanams, Tirupathi Rep by Executive . Officer, Tirupati.
3. The Management Committee Succeeded by the Board of

Trustees, Tirumala Tirupati Devasthanams,
Tirupati. Rep by its Chairman,
4 The State of Andhra Pradesh, Rep by Secretary,
Revenue (Endowments III) Department, Secretariat,
Hyderabad.

…RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction particularly a Writ in the nature of CERTIORARI calling for the records from the first respondent- Industrial Tribunal Cum Labour Court, Anantapur in I.D.No.85/1989 dated 20.11.91 published on 6-1-92 and by quashing the same to the extent of denial of duty wages from the date of suspension on 22-3-73 and attendant benefits including monetary benefits arrears of salary and hike in pensionary benefits and consequently order payment of duty back wages from 22-3-1973 continuity of service with all attendant and consequential benefits including seniority etc.,

Counsel for the Petitioner:DR.P.B.VIJAY KUMAR

Counsel for Respondent No.1: THE GOVT. PLEADER FOR LABOUR

Counsel for the Respondents No.2 and 3: MR.P.HARINATH GUPTA

Counsel for Respondent NO.4: The Government Pleader for Endowments

The Court made the following :

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ORDER:

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This writ petition is filed challenging the order dated 20-11-1991 in I.D.No. 85 of 1989 passed by the Industrial Tribunal-Cum-Labour Court, Ananthapur.

2. The deceased employee Sri G.Kasi Naidu was working in Tirumala Tirupati Devasthanams, Tirupati as driver. While so, a charge sheet was issued to him with the following charges:

> *"Charge (1):- That, during his spell of duty as driver on lorry APC-5357 on 3-3-73, he caused accident at the bend near 5th furlong on the Tirupati-Tirumala Ghat Road at about 3-30 P.M. on 3-3-1973 (while he was driving the vehicle to Tirumala) and caused damages to the lorry and damaged the wall, due to his careless, negligent and rash driving.*
>
> *Charge (2): "That, he deliberately cut the brake hose of the lorry APC-5357 with an intention to misrepresent the facts about the accident and to mislead".*
>
> *Charge (3) :-"That, he has abandoned the lorry APC-5357 (after causing accident) at the accident spot and absented himself from the spot till 6-00 P.M. which is highly irregular and against discipline and which is highly irregular and against discipline and not reported the accident to officials immediately."*
>
> *Charge (4): "That, during his spell of duty as driver on lorry APC-6640 on 15-3-1973, he conveyed loads of gravel for a private contractor from Tirumala to Gogarbham Dam without producing trip sheet and chalan for payment at the Papavinasanam road toll-gate, and when questioned by the L.D.C. at Toll-gate,he made a trip from Tirumala to Gogarbham Dam at about 2-30 P.M. on 15-3-1973 without making entry in the register kept at the Papavinasanam road toll-gate and without the trip sheet and chalan".*
>
> *Charge (5) :"That, he has misbehaved with the L.D.Clerk at the Papavinasanam road toll-gate and abused him in vulgar language when questioned about his making a trip without noting entries about the trip in the register at the toll-gate as detailed in charge No.4 supra and that he was also found heavily drunk when the Traffic Inspector, Tirumala came to enquire into the facts detailed in charge NO.4 at the Papavinasanam road toll-gate on 15-3-1973".*

3. Thereafter an enquiry was conducted. Ultimately, he was removed from service. When he made an appeal before the Commissioner, Endowments Department, Andhra Pradesh, Hyderabad, the appellate authority interfered with the matter and directed the Executive Officer to conduct enquiry in accordance with the provisions

of the Act and after conducting an enquiry, ordered was passed dismissing the petitioner from service. Then the petitioner being dissatisfied with the order passed by the authorities, he approached the Industrial Tribunal. The Tribunal after considering the matter, passed award dated 20-11-1991 holding that the charges were proved, but the punishment of dismissal was disproportionate to the gravity of the misconduct and therefore, ordered reinstatement of the petitioner without back wages. Assailing the Award of the Tribunal denying back wages, the present writ petition has been filed.

4. The learned counsel for the petitioner submits that on the basis of the evidence, it cannot be said that the charges were proved. Hence, the findings of the Industrial Tribunal are not correct, having held that the punishment is disproportionate, the Industrial Tribunal ought to have granted back wages to the petitioner for the period which, he was kept out of employment. Therefore, the order of the Tribunal denying back wages is not sustainable and the same is liable to be set aside.

5. I am afraid, I cannot accept the contention of the learned counsel for the petitioner. The Tribunal being the appropriate authority has considered the matter in proper perspective and taking into consideration the financial position and family background of the petitioner, reinstated the petitioner into service, but without back wages. Since, the Tirumala Tirupati Devastanam has not filed any writ petition, this Court is only to consider the contention of the learned counsel for the petitioner in this Writ Petition. Inasmuch as the Tribunal has exercised its discretion in refusing to grant back wages in a fair and valid manner. I do not find any grounds to interfere with the order of the Industrial Tribunal.

6. Thus, I do not find any ground in this writ petition.

7. Accordingly, the Writ Petition is dismissed. No order as to costs.

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G.Bikshapathy, J.

11th March, 2005.

KM

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1. The Presiding Officer, The Industrial Tribunal Cum Labour

Court, Anantapur.
2. Executive Officer, Tirumala Tirupati Devasthanams,

Tirupathi Tirupati.
3. The Chairman, the Management Committee

Succeeded by the Board of Trustees, Tirumala Tirupati

Devasthanams, Tirupati.

4. The Secretary, the State of Andhra Pradesh, Revenue

(Endowments III) Department, Secretariat, Hyderabad.

5. 2 CCs to Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

6. 2 CD copies.

THE HONOURABLE SRI JUSTICE G.BIKSHAPATHY

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W.P.No. 19875 OF 1994

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11th March, 2005

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